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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re MOISES R., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

MOISES R.,

Defendant and Appellant.

D059884

(Super. Ct. No. J226892)

APPEAL from a judgment of the Superior Court of San Diego County, Carolyn M. Caietti, Judge, and Lawrence Kapiloff (Retired Judge of the San Diego Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.). Affirmed.

Appellant Moises R., age 17, admitted, and the juvenile court found true, seven counts of violating Penal Code section 594, subdivisions (a), (b)(2)(A). The court dismissed the remaining charges with a *Harvey* waiver. (*People v. Harvey* (1979) 25 Cal.3d 754.) The court (Judge Carolyn Caietti) declared appellant a ward of the court;

ordered appellant's care, custody and control to be under the supervision of probation; placed appellant with his mother; imposed various terms and condition of probation; and ordered appellant to pay restitution to the City of San Marcos. At a subsequent restitution hearing, the court (Retired Judge Lawrence Kapiloff) ordered restitution in the amount of \$9,678.56.

FACTUAL AND PROCEDURAL BACKGROUND¹

In August 2010, Deputy Sheriff A. Paez contacted appellant and his two friends at about 11:15 a.m. sitting in appellant's car located in a parking area behind a vacant building in San Marcos. Appellant consented to a search of his car. Inside, the deputy located a bottle of beer, a water pipe and a paper containing graffiti-type writing, including the "tag" Soes. The deputy recognized the moniker as belonging to an unidentified prolific "tagger" in the City of San Marcos.

Following a *Miranda* admonishment, appellant admitted that he had been "tagging" on and off for the past two years and that he "tagged" for the " 'fun' " and " 'thrill' " of it. When shown pictures of graffiti vandalism in the City of San Marcos containing the tag name "Soes," he admitted to 36 incidents. Appellant later told the probation officer that "Soes" was a name he picked in his freshman year of high school.

On August 25, 2010, appellant was charged in a petition with 28 counts of misdemeanor vandalism, one count of violating Business and Professions Code section 25662, subdivision (a) and one count of violating Penal Code section 308, subdivision

¹ Facts are taken from reports prepared by the probation department.

(b). The 28 counts of vandalism occurred between September 27, 2009 and April 27, 2010, all within the one-year statute of limitations. The other eight incidents of vandalism that appellant admitted to the police occurred between March 29 and April 7, 2009.

At a restitution hearing in May 2011, Ricky Nelson, a public works supervisor for the City of San Marcos, testified that he is responsible for the Graffiti Department. He explained that the City outsources graffiti clean-up and is charged a negotiated contract rate on a per-incident basis. The City was billed for and paid this rate for 36 incidents attributable to appellant. Applying the negotiated rate to the 36 incidents which appellant admitted, the court imposed a restitution order of \$9,678.56.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable, issues: (1) whether the court erred in ordering restitution based on an average cost for graffiti removal rather than the actual costs incurred; (2) whether the court abused its discretion by ordering appellant to pay restitution for eight uncharged and time-barred graffiti incidents; and (3) whether there was sufficient evidence to support restitution for the uncharged counts.

We granted appellant permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Competent counsel has represented appellant on this appeal.

DISPOSITION

The judgment is affirmed.

HALLER, J.

WE CONCUR:

NARES, Acting P.J.

AARON, J.